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## **Federal Act on International Administrative Assistance in Tax Matters (Tax Administrative Assistance Act, TAAA)**

of 28 September 2012 (Status as of 1 January 2022)

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*The Federal Assembly of the Swiss Confederation,  
based on Article 173 paragraph 2 of the Federal Constitution<sup>1</sup>,  
and having considered the Federal Council Dispatch dated 6 July 2011<sup>2</sup>,  
decrees:*

### **Chapter 1    General Provisions<sup>3</sup>**

#### **Art. 1            Subject matter and scope of application**

<sup>1</sup> This Act governs the execution of administrative assistance in the exchange of information on request and in the spontaneous exchange of information:<sup>4</sup>

- a. in accordance with agreements for the avoidance of double taxation;
- b. in accordance with other international agreements that provide for the exchange of information regarding tax matters.

<sup>2</sup> It is subject to the derogations of individual applicable agreements.

AS **2013** 231

<sup>1</sup> SR **101**

<sup>2</sup> BBl **2011** 6193

<sup>3</sup> Amended by the Annex to the Federal Decree of 18 Dec. 2015 on the Approval and Implementation of the Convention of the Council of Europe and the OECD on Mutual Administrative Assistance in Tax Matters, in force since 1 Jan. 2017 (AS **2016** 5059; BBl **2015** 5585).

<sup>4</sup> Amended by the Annex to the Federal Decree of 18 Dec. 2015 on the Approval and Implementation of the Convention of the Council of Europe and the OECD on Mutual Administrative Assistance in Tax Matters, in force since 1 Jan. 2017 (AS **2016** 5059; BBl **2015** 5585).

**Art. 2<sup>5</sup>** Competent authority

<sup>1</sup> The Federal Tax Administration (FTA) is responsible for administrative assistance procedures.

<sup>2</sup> Swiss courts and the competent tax authorities under cantonal or communal law may send documents directly by post to a person in a foreign state if the relevant agreement permits this.<sup>6</sup>

**Art. 3** Definitions

For the purposes of this Act:

- a.<sup>7</sup> the *person concerned* is the person about whom an administrative assistance request for information is made or a person whose tax situation is the subject of a spontaneous exchange of information;
- b. the *information holder* is the person in Switzerland who is in possession of the requested information.
- bbis.<sup>8</sup> an *exchange of information on request* is an exchange of information based on a request for mutual administrative assistance;
- c.<sup>9</sup> *group requests* are administrative assistance requests for information on two or more people with identical behaviour patterns who are identifiable by means of precise details
- d.<sup>10</sup> a *spontaneous exchange of information* is an unrequested exchange of information available to the FTA or the cantonal tax administrations that may be of interest to the competent foreign authority.

<sup>5</sup> Amended by the Annex to the Federal Decree of 18 Dec. 2015 on the Approval and Implementation of the Convention of the Council of Europe and the OECD on Mutual Administrative Assistance in Tax Matters, in force since 1 Jan. 2017 (AS **2016** 5059; BBl **2015** 5585).

<sup>6</sup> Inserted by No I 3 of the FA of 21 June 2019 on the Implementation of the Recommendations of the Global Forum on Transparency and the Exchange of Information for Tax Purposes, in force since 1 Nov. 2019 (AS **2019** 3161; BBl **2019** 279).

<sup>7</sup> Amended by the Annex to the Federal Decree of 18 Dec. 2015 on the Approval and Implementation of the Convention of the Council of Europe and the OECD on Mutual Administrative Assistance in Tax Matters, in force since 1 Jan. 2017 (AS **2016** 5059; BBl **2015** 5585).

<sup>8</sup> Inserted by the Annex to the Federal Decree of 18 Dec. 2015 on the Approval and Implementation of the Convention of the Council of Europe and the OECD on Mutual Administrative Assistance in Tax Matters, in force since 1 Jan. 2017 (AS **2016** 5059; BBl **2015** 5585).

<sup>9</sup> Inserted by No I of the Federal Act of 21 March 2014, in force since 1 Aug. 2014 (AS **2014** 2309; BBl **2013** 8369).

<sup>10</sup> Inserted by the Annex to the Federal Decree of 18 Dec. 2015 on the Approval and Implementation of the Convention of the Council of Europe and the OECD on Mutual Administrative Assistance in Tax Matters, in force since 1 Jan. 2017 (AS **2016** 5059; BBl **2015** 5585).

**Art. 4** Principles

<sup>1</sup> ...<sup>11</sup>

<sup>2</sup> The administrative assistance procedure is carried out swiftly.

<sup>3</sup> It is forbidden to provide information on persons not concerned by the request unless this information is foreseeably relevant to the assessment of the tax situation of the person concerned or the legitimate interests of persons who are not persons concerned outweigh the interest of the requesting party in the transmission of the information.<sup>12</sup>

**Art. 4a<sup>13</sup>** Electronic procedures

<sup>1</sup> The Federal Council may require the electronic conduct of procedures under this Act. If so, it shall regulate the modalities of such conduct.

<sup>2</sup> The FTA shall ensure the authenticity and integrity of data transmitted during the electronic conduct of procedures.

<sup>3</sup> In the case of the electronic filing of submissions whose signature is required by law, it may recognise a different form of electronic confirmation of the information from a qualified electronic signature.

**Art. 5** Applicable procedural law

<sup>1</sup> Unless otherwise specified in this Act, the Federal Act of 20 December 1968<sup>14</sup> on Administrative Procedure (APA) applies.

<sup>2</sup> Article 22a paragraph 1 of the APA on statutory or official periods does not apply.

**Art. 5a<sup>15</sup>** Agreements on the data protection

If the applicable convention provides that the informing authority may stipulate data protection provisions that must be observed by the recipient authority, the Federal Council may enter into agreements on data protection. The data protection provisions that must be observed must provide at least the same level of protection as the Federal Act of 19 June 1992<sup>16</sup> on Data Protection.

<sup>11</sup> Repealed by the Annex to the Federal Decree of 18 Dec. 2015 on the Approval and Implementation of the Convention of the Council of Europe and the OECD on Mutual Administrative Assistance in Tax Matters, with effect from 1 Jan. 2017 (AS **2016** 5059; BBl **2015** 5585).

<sup>12</sup> Amended by the Annex to the Federal Decree of 18 Dec. 2015 on the Approval and Implementation of the Convention of the Council of Europe and the OECD on Mutual Administrative Assistance in Tax Matters, in force since 1 Jan. 2017 (AS **2016** 5059; BBl **2015** 5585).

<sup>13</sup> Inserted by No I 6 of the FA of 18 June 2021 on Electronic Tax-related Procedures, in force since 1 Jan. 2022 (AS **2021** 673; BBl **2020** 4705).

<sup>14</sup> SR **172.021**

<sup>15</sup> Inserted by the Annex to the Federal Decree of 18 Dec. 2015 on the Approval and Implementation of the Convention of the Council of Europe and the OECD on Mutual Administrative Assistance in Tax Matters, in force since 1 Jan. 2017 (AS **2016** 5059; BBl **2015** 5585).

<sup>16</sup> SR **235.1**

## **Chapter 2 Exchange of Information on Request<sup>17</sup>**

### **Section 1 Administrative Assistance Requests by Foreign States<sup>18</sup>**

#### **Art. 6 Requests**

<sup>1</sup> Requests from a foreign state must be made in writing in one of the official languages of Switzerland or in English and include the information required by the applicable agreement.

<sup>2</sup> If the applicable agreement does not specify any requirements for the content of a request, and unless otherwise apparent from the agreement, the request must include the following information:

- a. the identity of the person concerned, whereby the person may be identified by means other than his name and address;
- b. a description of the information requested and the form in which the requesting state wishes to receive this information;
- c. the tax purpose for which the information is requested;
- d. the grounds for presuming that the information requested is in the requested state or is in the possession of or under the control of an information holder resident in the requested state;
- e. the name and address of the presumed information holder, if known;
- f. a declaration that the request complies with the legal and regulatory requirements and the administrative practices of the requesting state, such that the requesting authority would be entitled to receive the information in application of its law or within the scope of its normal administrative practices if the information was under its jurisdiction;
- g. a declaration that the requesting state has exhausted all regular sources of information available under its domestic tax procedure.

<sup>2bis</sup> The Federal Council determines the required content of a group request. <sup>19</sup>

<sup>3</sup> If the requirements under paragraphs 1 and 2 are not met, the FTA shall notify the requesting authority of this in writing, and give it the opportunity to supplement its request in writing.<sup>20</sup>

<sup>17</sup> Inserted by the Annex to the Federal Decree of 18 Dec. 2015 on the Approval and Implementation of the Convention of the Council of Europe and the OECD on Mutual Administrative Assistance in Tax Matters, in force since 1 Jan. 2017 (AS **2016** 5059; BBl **2015** 5585).

<sup>18</sup> Amended by the Annex to the Federal Decree of 18 Dec. 2015 on the Approval and Implementation of the Convention of the Council of Europe and the OECD on Mutual Administrative Assistance in Tax Matters, in force since 1 Jan. 2017 (AS **2016** 5059; BBl **2015** 5585).

<sup>19</sup> Inserted by No I of the Federal Act of 21 March 2014, in force since 1 Aug. 2014 (AS **2014** 2309; BBl **2013** 8369).

<sup>20</sup> Amended by No I of the Federal Act of 21 March 2014, in force since 1 Aug. 2014 (AS **2014** 2309; BBl **2013** 8369).

**Art. 7** Non-consideration

The request will not be considered if:

- a. it constitutes a fishing expedition;
- b. it requests information not covered by the administrative assistance provisions of the applicable agreement; or
- c. it violates the principle of good faith, particularly if it is based on information obtained through a criminal offence under Swiss law.

**Section 2 Procurement of Information<sup>21</sup>****Art. 8** Principles

<sup>1</sup> For the purpose of procuring information, only measures which are in accordance with Swiss law for the assessment and enforcement of the tax claims referred to in the request may be taken.

<sup>2</sup> Information that is in the possession of a bank, another financial institution, a mandated or authorised person or a fiduciary, or information concerning a participation in a legal entity may be requested if the applicable agreement provides for the transmission of such.

<sup>3</sup> For the procurement of the requested information, the FTA shall contact the persons and authorities mentioned in Articles 9 to 12 who can be assumed to have such information.

<sup>4</sup> The requesting authority is not entitled to inspect files or be present during proceedings in Switzerland.

<sup>5</sup> Information procurement costs are not reimbursed.

<sup>6</sup> Lawyers who are authorised to represent parties before judicial authorities in Switzerland under the Lawyers Act of 23 June 2000<sup>22</sup> (LawA) may refuse to surrender documents and information protected under the provisions on professional secrecy for lawyers.

**Art. 9** Procurement of information from the person concerned

<sup>1</sup> If the person concerned has limited or unlimited tax liability in Switzerland, the FTA shall ask him to produce the information in his possession that is likely to be necessary to respond to the request for administrative assistance. It shall prescribe a deadline for this.

<sup>21</sup> Amended by the Annex to the Federal Decree of 18 Dec. 2015 on the Approval and Implementation of the Convention of the Council of Europe and the OECD on Mutual Administrative Assistance in Tax Matters, in force since 1 Jan. 2017 (AS **2016** 5059; BBl **2015** 5585).

<sup>22</sup> SR **935.61**